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Attorneys for the United States

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
DAVID E. BURKHOLDER,  
  
Defendant.

3 08 70140  
CRIMINAL NO.

NOTICE OF PROCEEDINGS ON  
OUT-OF-DISTRICT CRIMINAL  
CHARGES PURSUANT TO RULES  
5(c)(2) AND (3) OF THE FEDERAL RULES  
OF CRIMINAL PROCEDURE

JCS

Please take notice pursuant to Rules 5(c)(2) and (3) of the Federal Rules of Criminal  
Procedure that on March 12, 2008, the above-named defendant was arrested based upon an  
arrest warrant (copy attached) issued upon an

☒ Indictment

☐ Information

☐ Criminal Complaint

☐ Other (describe) \_\_\_\_\_

pending in the District of Kansas, Case Number 08-10042 WEB.

1 In that case, the defendant is charged with a violation(s) of Title 18 United States Code,  
2 Sections 1343 and 2.

3 Description of Charges: Devising a scheme or artifice to defraud, or for obtaining money by  
4 means of false or fraudulent pretenses, representations, and promises, caused to be transmitted by  
5 means of wire, radio or television communication in interstate commerce, writings, signs,  
6 signals, or sounds for the purpose of executing such scheme or artifice.

7  
8 Respectfully Submitted,

9 JOSEPH P. RUSSONIELLO  
10 UNITED STATES ATTORNEY

11 Date: March 12, 2008

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13 \_\_\_\_\_  
14 NICOLE M. KIM  
15 Assistant U.S. Attorney  
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**COPY**

AO 442 (Rev. 10/03) Warrant for Arrest

**United States District Court**

DISTRICT OF

Kansas

UNITED STATES OF AMERICA

v.

DAVID E. BURKHOLDER

**WARRANT FOR ARREST**CASE NUMBER: 08-10042-01-WESTo: The United States Marshal  
and any Authorized United States OfficerYOU ARE HEREBY COMMANDED to arrest DAVID E. BURKHOLDER

and bring him or her forth to the nearest magistrate judge to answer a(n)

☒ Indictment    ☐ Information    ☐ Complaint    ☐ Order of Court    ☐ Probation Violation Petition    ☐ Supervised Release Violation Petition    ☐ Violation Notice

charging him or her (brief description of offense)

Devising a scheme or artifice to defraud, or for obtaining money by means of false or fraudulent pretenses, representations, and promises, caused to be transmitted by means of wire, radio or television communication in interstate commerce, writings, signs, signals, or sounds for the purpose of executing such scheme or artifice.

See attached indictment for additional charges.

in violation of 18 United States Code, Section(s) 1343 & 2INGRID A. CAMPBELL

Name of Issuing Officer

Acting Clerk of Court

Title of Issuing Officer

IS  
Signature of Issuing Officer

February 6, 2008

Wichita, Kansas

Date and Location

**RETURN**

This warrant was received and executed with the arrest of the above-named defendant.

DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

FILED  
U.S. DISTRICT COURT  
DISTRICT OF KANSAS

**UNITED STATES OF AMERICA.**

Plaintiff,

**v.**

**DAVID E. BURKHOLDER,**

Defendant.

### Criminal Action

No. 08-1042

08 FEB -6 P5 09

CLERK, U.S. DISTRICT COURT  
BY [Signature] DEPUTY CLERK  
AT WICHITA, KS

**INDICTMENT**

## THE GRAND JURY CHARGES:

1. David E. Burkholder is a resident of the State of California and is the son of John Burkholder and Donna Burkholder, who reside in the State of Kansas.
2. In 2002, the exact date of which is unknown to the Grand Jury, the defendant, DAVID E. BURKHOLDER, asked his parents to loan him some money.
3. The defendant, DAVID E. BURKHOLDER, falsely represented to his parents that he needed the money to settle a personal injury claim being asserted against him as a result of a car accident and for legal expenses associated with a new business being formed by the defendant and numerous other partners, and that the moneys would be repaid to John Burkholder and Donna Burkholder within a few weeks, and the partnership would pay a penalty to John Burkholder and Donna Burkholder, if the repayment was untimely.
4. In the months following the defendant's initial request, John Burkholder and Donna Burkholder, loaned in excess of \$750,000.00 to the defendant, in reliance upon the defendant, DAVID E. BURKHOLDER's representations.

5. In July of 2003 John Burkholder corresponded with the defendant, DAVID E. BURKHOLDER, requesting repayment and noting that the repayment was past-due.

6. The defendant, DAVID E. BURKHOLDER, did not make payment to John and Donna Burkholder, but convinced them to solicit additional money from other family members on the defendant's behalf, and falsely represented to his parents that the money was for the purpose of paying a personal injury settlement and/or to pay the expense of forming a new business partnership and that the loans would be for a very short duration, from a few days to a few weeks.

7. As a result John and Donna Burkholder solicited other family members who in turn loaned in excess of \$925,000.00 to John and Donna Burkholder to be used by the defendant, DAVID E. BURKHOLDER, in settlement of the personal injury claim against the defendant and/or for the start up business expenses associated with a partnership of which the defendant was a partner.

8. Despite the defendant's representations to John Burkholder and Donna Burkholder, the money sent to the defendant, DAVID E. BURKHOLDER, by John Burkholder, Donna Burkholder and other family members, was not used by the defendant to resolve any personal injury claim or for business expenses associated with the formation of any partnership.

9. In the fall of 2003, the defendant, DAVID E. BURKHOLDER, asked John Burkholder and Donna Burkholder to solicit additional funds from friends of the family and again falsely represented that these funds were needed to settle a personal injury claim being made against the defendant, for business expenses associated with the defendant's partnership.

10. In addition to the defendant's repeated false representations concerning a personal injury claim and expenses in forming a partnership, the defendant made additional false representation, to wit; that money was needed to pay a disgruntled partner, who had breached the partnership agreement and to make a payment Barbara Streisand due to an alleged agreement/contract between Barbara Streisand and the defendant.

11. As a result of the defendant's request, John Burkholder and Donna Burkholder solicited funds from friends and acquaintances of the family. At the suggestion of the defendant, DAVID E. BURKHOLDER, any funds generated from the family friends and acquaintances were initially deposited into the bank account of John Burkholder and Donna Burkholder and then these funds were wired to the defendant's bank in California.

12. The defendant, DAVID E. BURKHOLDER, did not use the funds transmitted to him by John Burkholder or Donna Burkholder to pay a personal injury claim asserted against the defendant, to pay the expenses of forming a partnership, to pay a disgruntled partner or to pay any money to Barbara Streisand but the defendant, DAVID E. BURKHOLDER, typically withdrew the funds from his account in the form of cash.

**COUNTS ONE THROUGH TWENTY-FOUR  
WIRE FRAUD**

13. Beginning at an unknown date in 2003 and continuing through April 8, 2005, in the District of Kansas and elsewhere, the defendant,

**DAVID E. BURKHOLDER,**

having devised a scheme or artifice to defraud, or for obtaining money by means of false or fraudulent pretenses, representations, and promises, caused to be transmitted by means of wire,



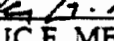
radio or television communication in interstate commerce, writings, signs, signals, or sounds for the purpose of executing such scheme or artifice, to wit; DAVID E. BURKHOLDER, caused his parents, John and Donna Burkholder, to borrow money from the friends and family of John and Donna Burkholder, by providing false and fraudulent pretenses and representations, known by the defendant, DAVID E. BURKHOLDER, to be false and fraudulent, thereby causing the friends and family members of John Burkholder and Donna Burkholder to loan money to John and Donna Burkholder, for the benefit of DAVID E. BURKHOLDER, and for the stated reasons, with said money being transferred from the account of John and Donna Burkholder to the account of DAVID E. BURKHOLDER, via wire transfer, on the dates and occasions as set forth below:

<u>COUNT</u>	<u>PERSON</u>	<u>DATE</u>	<u>AMOUNT</u>
1	G & N I	10-3-03	\$20,000.00
2	W D	10-28-03	\$30,000.00
3	G & N I	11-21-03	\$7,000.00
4	R B	12-16-03	\$24,000.00
5	W D	2-9-04	\$10,000.00
6	A K	2-25-04	\$50,000.00
7	M F	2-27-04	\$20,000.00
8	M M	3-1-04	\$80,000.00
9	P W	4-21-04	\$10,000.00
10	D F	5-25-04	\$10,000.00
11	N L	4-23-04	\$25,000.00

12	N L	8-31-04	\$2,000.00
13	D C	12-20-04	\$47,000.00
14	D R	1-6-05	\$5,000.00
15	D C	1-19-05	\$30,000.00
16	D C	2-28-05	\$53,000.00
17	D C	3-3-05	\$11,000.00
18	D C	3-10-05	\$67,000.00
19	N L	4-1-05	\$2,000.00
20	J W	4-5-05	\$3,000.00
21	K N	4-5-05	\$1,000.00
22	R B	4-8-05	\$21,000.00
23	R P	4-20-04	\$15,000.00
24	R P	7-6-04	\$5,000.00

**All of the above being in violation of Title 18, United States Code, §§1343 and 2.**

A TRUE BILL

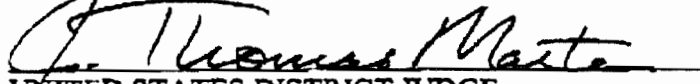
2-6-08  
DATE  
  
ERIC F. MELGREN  
United States Attorney  
District of Kansas  
1200 Epic Center, 301 N. Main  
Wichita, Kansas 67202  
(316) 269-6481  
Ks. S. Ct. No. 12430

FOREMAN OF THE GRAND JURY




(It is requested that trial be held in Wichita, Kansas.)

Returned in open court this 6th day of February, 2008.

  
UNITED STATES DISTRICT JUDGE

U.S. DISTRICT COURT )  
DISTRICT OF KANSAS ) SS:  
I hereby certify that the foregoing  
is a true copy of the original on file  
in this court and clerk's office.

Clerk, U.S. District Court  
By  Deputy Clerk

Dated: 2-7-08